

• • R E M A R K S • •

In the Notice of Non-Complaint Amendment, the Examiner indicated that a clean version of the replacement paragraph(s)/section(s) is required, and specifically referred to page 7, page 3, line 3, and page 5, line 18 of the Substitute Specification.

In addition, the Examiner indicated that an accurate marked-up version of the specification of record, i.e. as amended 5-24-01, was not provided. The Examiner specifically stated that pages 2-3 do not correspond.

The undersigned has reviewed the portions of the Substituted Specification that the Examiner cited in the Notice of Non-Compliant Amendment, i.e. page 7, line 3, line 3, page 5, line 18, and was not able to find any problems with these portions of the Substitute Specification.

It appears that the Examiner may have not considered that the Substitute Specification filed October 9, 2002 was filed under the provisions of 37 CFR §1.125(b) and not under the provisions of 37 CFR §1.125(a).

37 CFR §1.125(a) states that:

(a) If the number or nature of the amendments or the legibility of the application papers renders it difficult to consider the application, or to arrange the papers for printing or copying, the Office may require the entire specification, including the claims, or any part thereof, be rewritten.

37 CFR §1.125(b)(1)-(2) states that:

(b) A substitute specification, excluding the claims, may be filed at any point up to payment of the issue fee if it is accompanied by:

(1) A statement that the substitute specification includes no new matter; and

(2) A marked-up copy of the substitute specification showing the matter being added to and the matter being deleted from the specification of record.

While 37 CFR §1.125(a) requires a Substitute Specification that incorporates previous amendments to the original specification, 37 CFR §1.125(b) does not.

The Substitute Specification submitted by applicant on October 9, 2002 was not intended to have the changes per applicant's amendment filed May 24, 2001 incorporated therein, prior to any further changes.

It is believed that applicant's Substitute Specification was submitted in accordance with the provisions of 37 CFR §1.125(b) inasmuch as both a clean and marked-up copy of the Substitute Specification were submitted together with a statement that the Substitute Specification only included the changes shown in the marked-up copy and did not include any new matter.

In the Notice of Non-Compliant Amendment, the Examiner notes that an accurate marked-up version of claim 1 needs to be submitted. In addition, the Examiner stated that the language added to the end of independent claim 1 is indefinite because it is unclear "how can something, i.e. the cover member, extend out of a plane containing it, i.e. the cover member."

In response to the Examiner's indication that claim 1 is indefinite, claim 1 has been supplementally amended herein to provide basis for a "skin contacting surface" and to recite that the covering member can be more easily stretched in a direction of the skin contacting surface in the first zone than in the remaining zone. This change to claim 1 references the skin contacting surface and avoids the previous reference to the plane containing the covering member.

In accordance with the Notice of Non-Compliant Amendment, applicant is submitting herewith an accurate marked-up copy of claim 1 as amended on October 9, 2002 together with an accurate marked-up copy of claim 1 as amended herein.

Inasmuch as the Substitute Specification was properly filed under the provisions of 37 CFR §1.125(b), applicant requests that the Substitute Specification be entered as previously submitted.

Inasmuch as the Examiner has indicated that claim 1 needed to be amended to correct problems with indefiniteness, it is believed that by amending claim 1 herein and submitting an accurate marked-up copy of claim 1 as amended on October 9, 2002 (note only one word was inadvertently not underlined) and as presently amended, all the issues of concern in the Notice of Non-Compliant have been addressed and the present response is believed to be a complete and proper response.

Entry of the amendments to claims 2-7 and new claims 8 and 9 submitted on October 9, 2002 is requested.

Entry and acceptance of the Request for Approval of Drawing Amendments filed October 9, 2002 are requested.

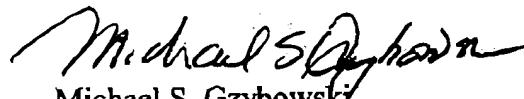
Applicant's remarks and arguments set forth in the Amendment filed October 9, 2002 are expressly incorporated here in and the Examiner is requested to consider such remarks and arguments.

It is believed that the above which references and incorporates applicant's amendment filed October 9, 2002 constitutes a complete response to the Notice of Non-Compliant Amendment and a complete response to the Official Action of July 10, 2002, inasmuch as the only actual response needed to the Notice of Non-Compliant Amendment is believed to be an accurate marked-up copy of claim 1 which is being submitted herewith. The remaining parts of the Amendment filed October 9, 2002 are believed to have been properly filed.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,


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Marked-Up Copy of Claim 1
As Amended on October 9, 2002

1. (Twice Amended) A disposable diaper comprising:

an elastically stretchable covering member for covering a diaper wearer's crotch and waist regions;

a liquid-pervious sheet for contacting with skin of said diaper wearer;

a liquid-absorbent core member sandwiched between said liquid-pervious sheet and said covering [member,] member;

elastic members provided along transversal side edges of said diaper to extend circumferentially along leg-openings that are defined when the diaper is put on the diaper wearer;

said covering member consisting of an elastically stretchable first layer and an inelastically stretchable second layer formed with a plurality of continuous fibers, said continuous fibers being fixed to said elastically stretchable first layer in at least a pair of bonding zones spaced apart from each other so that a ratio of L/D , where L is a length of said continuous fiber extending between said pair of bonding zones and D is a distance in straight line between said pair of bonding zones, is larger in a first zone on said covering member than in a remaining [zone.] zone, so that said covering

member can be more easily stretched out of a plane containing the covering member ⁱⁿ said first zone than in said remaining zone, and said first zone being adjacent said liquid-absorbent core member and at least substantially coextensive with said liquid-absorbent core member, so that pressure exerted in said covering member by said liquid-absorbent core member will stretch the first zone out of a plane containing the covering member.

Marked-Up Copy of Claim 1
As Amended on January 20, 2002

1. (Three Times Amended) A disposable diaper comprising:

an elastically stretchable covering member for covering a diaper wearer's crotch and waist regions;

a liquid-pervious sheet having a skin contacting surface for contacting with skin of said diaper wearer;

a liquid-absorbent core member sandwiched between said liquid-pervious sheet and said covering member;

all 7-8-03 discrete elastic members provided along transversal side edges of said diaper to extend circumferentially along leg-openings that are defined when the diaper is put on the diaper wearer;

said covering member consisting of an elastically stretchable first layer and an inelastically stretchable second layer formed with a plurality of continuous fibers, said continuous fibers being

all 7-8-03 fixed to said elastically stretchable first layer in at least a pair of bonding zones spaced apart from each other so that a ratio of L/D , where L is a length of said continuous fiber extending between said

pair of bonding zones and D is a distance in straight line between said pair of bonding zones, is larger in a first zone on said covering member than in a remaining zone, so that said covering

all 7-8-03 member can be more easily stretched [out of a plane containing the covering member ~~is~~] in a direction of the skin contacting surface in said first zone than in said remaining zone, and said first

zone being adjacent said liquid-absorbent core member and at least substantially coextensive with said liquid-absorbent core member, so that pressure exerted in said covering member by said liquid-

absorbent core member will stretch the first zone [out of a plane containing the covering member.] ^{NR} in
said direction of the skin contacting surface.